

FAMILY LAW SECTION
Respectfully submits the following position on:

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SB 0989

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The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Family Law Section is 2,481.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 21. The number who voted in favor to this position was 17. The number who voted opposed to this position was 0.

Report on Public Policy Position

Name of section:

Family Law Section

Contact person:

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Bill Number:

SB 0989 (Hopgood) Family law; child custody; granting of custody or parenting time for parent convicted of certain sexual offenses; prohibit. Amends secs. 2, 5 & 7a of 1970 PA 91 (MCL 722.22 et seq.) & adds sec. 5a.

Date position was adopted:

March 3, 2012

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

17 Voted for position

0 Voted against position

0 Abstained from vote

4 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

SB 989 would prevent courts from awarding any parenting time to a parent if anyone in that parent's household is convicted of a felony requiring them to register under the Sex Offenders Registration Act, unless the other parent and the child agree to the parenting time. This would not only bar parenting time for a registrant, it would also eliminate parenting time for a parent who marries a registrant, even parenting time outside of the household where the registrant lives, or any type of supervised parenting time.

No single outcome should be mandated for all of these cases. Depending on the facts of the case and the reasons for the registrant's listing on the registry, some children would require more protection than others. Unnecessarily demonizing a parent and completely cutting off a child's access to that parent is harmful to children. The child grows up learning that half of their genetic makeup is unspeakably evil and dangerous, and this is damaging to the

child's self-image. Current law allows the court to eliminate parenting time or craft protections for children in these cases. There is no indication that judges are handling these cases inappropriately.

There are more appropriate means to improve the handling of these cases. The State Court Administrative Office has created a Manual for Custody and Parenting Time Evaluation that provides guidance for evaluating factors for parenting time. Page 13 of the Parenting Time Guidelines begins the discussion of supervised visitation. These guidelines could be updated to include specific sections for evaluating cases where a parent is listed on the Sex Offenders Registry. It would also be possible to add a factor to the parenting time statute, MCL 722.27a, to give the court more specific direction in these cases.

This bill focuses on sex offenders as though they are the only group of troubled parents. An equally strong case could be made for eliminating parenting time for alcoholics, drug offenders, or parents convicted of violent crimes. There is no "one size fits all" solution for any of these cases. The Family Law Section opposes this bill.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2012-SB-0989>